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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	COMPINAL	
09/464,582	12/16/1999	NELS LAURITZEN		CONFIRMATION NO.	
		NEES EAGRIZEN	PPC-694	7760	
	11/05/2002				
AUDLEY A CIAMPORCERO JR			EXAMINER		
ONE JOHNSON & JOHNSON PLAZA					
NEW BRUNS	WICK, NJ · 089337003		KIDWELL, MICHELE M		
			ART UNIT	PAPER NUMBER	
			3761		
			DATE MAILED: 11/05/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

<u> </u>			J. O.
re l		Application No.	pplicant(s)
Office Action Summary		09/464,582	LAURITZEN, NELS
		Examiner	Art Unit
		Michele Kidwell	3761
The M/ Period for Reply	AILING DATE of this communication a	appears on the cover sheet wi	th the correspondence address
THE MAILING - Extensions of tim after SIX (6) MOI - If the period for re - If NO period for re - Failure to reply w - Any reply receive	ED STATUTORY PERIOD FOR REF DATE OF THIS COMMUNICATION e may be available under the provisions of 37 CFR ITHS from the mailing date of this communication. sply specified above is less than thirty (30) days, a reply is specified above, the maximum statutory period thin the set or extended period for reply will, by stated by the Office later than three months after the main adjustment. See 37 CFR 1.704(b).	N. 1.136(a). In no event, however, may a re- reply within the statutory minimum of thirty od will apply and will expire SIX (6) MON tute. cause the application to become AB	eply be timely filed y (30) days will be considered timely. THS from the mailing date of this communication. ANDONED (35.U.S.C. & 133)
1)⊠ Respor	nsive to communication(s) filed on 3	1 July 2002	
		This action is non-final.	
3) Since to closed Disposition of Cl	nis application is in condition for allo in accordance with the practice unde	wance except for formal mat	ters, prosecution as to the merits is 0. 11, 453 O.G. 213.
	<u>1-9 and 13-17</u> is/are pending in the	annlication	
	e above claim(s) is/are withdi	. ,	
_	is/are allowed.	rawn nom consideration.	
	<u>1-9 and 13-17</u> is/are rejected.	•	
· <u> </u>	is/are objected to.		
	are subject to restriction and	/or election requirement	
Application Pape		or election requirement.	
9) The spec	fication is objected to by the Examir	ner.	·
10)☐ The draw	ng(s) filed on is/are: a)□ acc	cepted or b) objected to by th	e Examiner.
Applicar	nt may not request that any objection to	the drawing(s) be held in abeya	nce. See 37 CFR 1.85(a).
11) The propo	osed drawing correction filed on	is: a)□ approved b)□ dis	sapproved by the Examiner.
If approv	red, corrected drawings are required in r	reply to this Office action.	
12)☐ The oath	or declaration is objected to by the E	Examiner.	
Priority under 35	U.S.C. §§ 119 and 120		
13) Acknowle	edgment is made of a claim for forei	gn priority under 35 U.S.C. §	119(a)-(d) or (f).
a) All b)[☐ Some * c)☐ None of:		
1.□ Ce	rtified copies of the priority documer	nts have been received.	
2. Ce	rtified copies of the priority documer	nts have been received in Ap	plication No
	pies of the certified copies of the pri application from the International B ached detailed Office action for a lis	Bureau (PCT Rule 17.2(a)).	•
		•	119(e) (to a provisional application).
a) 🔲 The t	ranslation of the foreign language pl Igment is made of a claim for domes	rovisional application has bee	en received.
Attachment(s)			
	ces Cited (PTO-892) erson's Patent Drawing Review (PTO-948) osure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Inf	ummary (PTO-413) Paper No(s) formal Patent Application (PTO-152)
Patent and Trademark Office O-326 (Rev. 04-01)	Office A	Action Summary	Part of Paper No. 14

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13 – 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 13, the applicant has amended the claims to recite an absorbent garment kit. It is unclear what the applicant intends to claim as an invention because the disclosure continuously refers to an integral waist belt attached to a suspension sling. Since there are no other pieces disclosed outside of this integral waist belt attached to a suspension sling, there is no basis for claiming a kit. Likewise, the specification does not provide antecedent bases for the claimed subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 9 and 13 – 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (US 5,607,416).

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With respect to claim 1, Yamamoto et al. (hereinafter "Yamamoto") discloses an integral disposable absorbent garment that may be worn about a human lower torso comprising a suspension sling for absorbing and containing body exudates (1) having longitudinally extending suspension sling side margins, a suspension sling distal end and a suspension sling proximal end (figure 4), said suspension sling being suspendable in a wearer's crotch region (col. 5, lines 32 – 35) and a waist belt (2) having a first belt end secured to the suspensions sling proximal end and a second belt end wherein the waist belt is capable of encircling a user's waist with the suspension sling suspended in the wearer's crotch region and the second belt end attached to the first belt end at the suspension sling proximal end as set forth in col. 5, lines 21 – 35.

As to claim 2, Yamamoto discloses a suspension sling comprising a liquid permeable topsheet, liquid impermeable backsheet associated with the topsheet and an absorbent structure positioned between the topsheet and the backsheet as set forth in col. 3, lines 30 - 33.

With regard to claims 3 and 4, Yamamoto discloses a garment wherein the suspension sling further comprises an elastic element disposed in at least one suspension sling side margin as set forth in col. 3, lines 51 – 61 and in figure 1.

As to claim 5, Yamamoto discloses the garment wherein the waist belt is elastically contractible as set forth in col. 4, lines 24 - 40.

With reference to claims 6-8, Yamamoto discloses the garment further comprising a waist belt attachment system as a pressure sensitive adhesive and a mechanical fastener as set forth in col. 4, lines 40-50.

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As to claim 9, Yamamoto discloses the garment wherein the suspension sling distal end further comprises suspension sling fasteners as set forth in figure 1.

With respect to claim 13, Yamamoto discloses an absorbent garment kit that may be worn about a human lower torso comprising a reusable waist belt having a first and second belt end (figure 3) with a first sling attachment location proximate the first belt end and a second sling attachment location disposed between the first and second belt ends (figure 1) and a disposable suspension sling for absorbing and containing body exudates (1) having longitudinally extending suspension sling side margins, a suspension sling distal end and a suspension sling proximal end (figure 4) wherein the suspension sling is attachable to the first and second sling attachment locations of the belt in a manner to suspend the suspension sling in a wearer's crotch (figure 1) and the waist belt (2) is capable of encircling a user's waist with the suspension sling suspended in the wearer's crotch region as set forth in col. 5, lines 21 – 35.

Regarding claim 14, Yamamoto discloses a garment wherein the second sling attachment location is disposed approximately midway between the first and second belt ends as set forth in figure 1.

As to claim 15, Yamamoto discloses a garment wherein the waist belt and suspension sling comprise a belt closure system as set forth in col. 4, lines 40 – 50.

With reference to claim 16, Yamamoto discloses a garment wherein the belt closure system comprises closure system elements (col. 3, lines 30 – 38) at least at the first and second sling attachment locations and proximate the suspension sling distal and proximal ends (figure 1).

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With respect to claim 17, Yamamoto discloses a garment wherein closure system elements join the first sling attachment location to the suspension sling proximal end as set forth in col. 3, lines 30 - 38 and in figure 1.

Response to Arguments

Applicant's arguments filed July 31, 2002 have been fully considered but they are not persuasive.

In response to applicant's argument that the office action fails to set forth where Yamomoto discloses a waist belt having a first belt end secured to the suspension sling proximal end and a second belt end, the examiner again refers to figure 1 as referenced in the passage cited in the rejection of claim 1. Figure 1 shows the first belt end (considered by the examiner to be the end of the belt from 13a to the area just before reference numeral 2) secured to the suspension sling (6) and a second belt end shown by reference number 13b.

Additionally, with respect to the applicant's argument that Yamomoto does not disclose a waist belt that is capable of encircling a user's waist with the second belt end attached to the first belt end at the suspension sling proximal end, the examiner contends that the applicant has not positively claimed this limitation and that the invention of Yamomoto is fully capable of performing the recited function.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the waist band and the pad member being separate elements in a kit) are not

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recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to the applicant's arguments that Yamamoto fails to teach that the pad member end is attachable to an attachment location. The applicant is reminded that "attachable" means being capable of attachment. Yamamoto discloses an end which is capable of being attached, and is attached to an attachment location. Further, a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. Since the term "kit" is found in the preamble, the examiner has considered the limitation. However, this term adds no structural limitation to the claimed invention and is not thought to patentably distinguish over the prior art. To the extent that the applicant has disclosed a kit, the invention of Yamamoto may also be considered a kit because it comprises both a waist belt and a disposable suspension sling as claimed by the applicant.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached 703-308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-0858.

My Chell Kiduell Michele Kidwell October 31, 2002

Aaron J. Lewis
Primary Examiner